United Nations S/PV.8290

Security Council

Seventy-third year

Provisional

8290th meeting

Wednesday, 20 June 2018, 10 a.m.

New York

President:	Mr. Kuzmin	(Russian Federation)
Members:	Bolivia (Plurinational State of)	Mr. Llorentty Solíz
	China	Mr. Zhang Dianbin
	Côte d'Ivoire	Mr. Djédjé
	Equatorial Guinea	Mr. Ndong Mba
	Ethiopia	Mr. Alemu
	France	Mrs. Gueguen
	Kazakhstan	Mr. Tumysh
	Kuwait	Mr. Almunayekh
	Netherlands	Mr. Van Oosterom
	Peru	Mr. Meza-Cuadra
	Poland	Mr. Lewicki
	Sweden	Ms. Schoulgin Nyoni
	United Kingdom of Great Britain and Northern Ireland	Mrs. Dickson
	United States of America	Mr. Simonoff

Agenda

Reports of the Secretary-General on the Sudan and South Sudan

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18-18910 (E)

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The meeting was called to order at 10.05 a.m.

Adoption of the agenda

The agenda was adopted.

Reports of the Secretary-General on the Sudan and South Sudan

The President (*spoke in Russian*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of the Sudan to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I give the floor to Prosecutor Bensouda.

Ms. Bensouda: I would like to begin by congratulating the Russian Federation on assuming the presidency of the Security Council, and to wish you, Sir, every success in steering the important work of this organ throughout the month of June.

It has been over 13 years since the Council referred the situation in Darfur to the International Criminal Court (ICC) and directed me to report to it every six months on actions taken and progress made pursuant to resolution 1593 (2005). After 13 years and 27 reports, the victims of the grave crimes that prompted the Security Council to refer the situation in Darfur to the ICC have yet to see those alleged to be most responsible for such crimes face justice. The question begs asking — how many more years and how many more reports will be required for the Council to be galvanized into taking tangible action? How much longer should victims of the alleged atrocity crimes in Darfur suffer in silence or wait to have their torment acknowledged through concrete results?

The Security Council has an important role to play in supporting the effective implementation of its own resolution — resolution 1593 (2005) — which referred the Darfur situation to the Court. In paragraph 2 of the resolution, the Council decided that the Government of the Sudan and all other parties to the conflict in Darfur shall cooperate fully with and provide any necessary assistance to the Court and the Prosecutor. Regrettably, the Government of the Sudan has not only refused to cooperate with the Court, in clear violation of the Council's resolution, but has rather been emboldened to publicly denounce the Court in this forum. It does so repeatedly, with facile and baseless allegations aimed at creating a distraction from the real issues and the Government's failure to fulfil its responsibilities and obligations. It is also regrettable that such intransigence has been presented in this Chamber, where respectful discourse is to govern all interventions, focused on finding real solutions to the serious issues of which this organ is seized.

The eyes of the world are upon us; the eyes of victims and victims' groups in Darfur, some of whom are present today, are upon us. They are owed at least this minimum decorum, and they deserve not to not have their ordeals undermined by rhetoric aimed at confusing the issues and distracting the Council's and the world's attention from what we are really concerned with here — the need to ensure that there is accountability for the serious and destabilizing crimes under the Rome Statute committed in Darfur through the Court's independent judicial process.

Today, I want to use this opportunity to reassure the victims in Darfur that my Office has neither forgotten nor abandoned them. Despite the many challenges we face, my Office continues to do all within its power and means to ensure that alleged perpetrators against whom ICC warrants have been issued will face justice in Court.

The ICC is a permanent judicial institution and it is here to stay. The evidence collected to date as part of our Darfur investigations, thanks to the assistance and commitment of victims and witnesses, and often at great risk, has persuaded the judges of the Court to issue warrants of arrest against five suspects. My Office continues to collect more evidence. Considerable progress has been made in this regard, thanks to the cooperation of a number of States and the sacrifices that many continue to make to help us solidify our cases towards the aim of being trial-ready. What is required now is for the Council and the international community at large to support the apprehension and transfer of ICC suspects to the Court so that they can answer the charges against them through a fair, independent and objective judicial process.

Let me be clear. The effective power to arrest and surrender ICC suspects in the Darfur situation

rests solely with States. The Council also plays a vital role in ensuring that these obligations are honoured. I once again urge the Council to take concrete action concerning States referred to it by the Court following failures by such States to arrest and surrender ICC suspects in the Darfur situation while such suspects are on their territory. I am encouraged by the efforts that a number of members of the Council, including permanent members, continue to make to break the impasse. These efforts include proposals for potential responses on the part of the Council to the referrals it receives and public calls on States, including the Sudan, to cooperate with the Court to execute outstanding arrest warrants. This ongoing support for the work of the Office by individual members of the Council is greatly valued.

As mentioned, there are today five persons in the Darfur situation subject to outstanding warrants of arrest: officials of the Government of the Republic of the Sudan Mr. Omar Al-Bashir, Mr. Ahmad Harun and Mr. Abdel Hussein; militia leader Mr. Ali Kushayb; and rebel leader Mr. Abdallah Banda. All are presently at large. These fugitives stand accused of multiple crimes against humanity and war crimes. These alleged atrocities include the widespread rape and sexual assault of women and girls; attacks on civilians and forcible expulsion from their homes; and detention, torture and summary executions of men detained by Janjaweed and the Sudanese army. It is also alleged that in 2007, personnel of an African Union peacekeeping operation in Darfur were attacked and murdered at their Haskanita base by rebel forces under the command of Mr. Banda. These are all serious crimes of great concern that must be addressed.

Following the Council's referral, the Office's investigation and application for warrants of arrest and the Pre-Trial Chambers' issuance of these warrants, there are now two main areas of focus in the Darfur situation: first, the Office's efforts to advance its investigations, and secondly, the Court's collective efforts to secure the arrest and surrender of the suspects in the Darfur situation. The support of the Council is critical to each if we are to move the Darfur situation forward and achieve justice for the victims.

In relation to the Office's ongoing investigations, during the reporting period the efforts of my team of lawyers, investigators and analysts resulted in important advancements in the cases against the Darfur suspects. Additional witnesses have been interviewed and a significant number of leads developed. However, despite this progress, additional funding is required to allow the team to increase the pace and breadth of its investigations. For this reason, I must respectfully repeat my request to the Council to facilitate financial support from the United Nations for the Office's investigations in the Darfur situation, as envisaged under article 115 (b) of the Rome Statute.

My report also makes clear that during the reporting period, the team's ongoing investigations benefited from the cooperation of over 20 States parties. My Office is immensely grateful for this support. Regrettably, however, the Sudan and a number of States parties do not cooperate with my Office in the Darfur situation. I therefore repeat my request to the Council to take steps to facilitate dialogue between my Office and the Government of the Sudan. I also repeat my invitation to the Government of the Sudan to constructively engage with my Office, including in particular to discuss future investigative missions by the Office to Darfur.

My report further provides an overview of the current ongoing litigation before the Court relating to States parties that failed to arrest and surrender Mr. Al-Bashir while he was on their territory. In relation to the Republic of Uganda and the Republic of Chad, Pre-Trial Chamber II has initiated proceedings pursuant to article 87.7 of the Rome Statute in relation to the failures of those State parties to arrest and surrender Mr Al-Bashir during official visits on 14 November 2017 and 1 and 2 December 2017, respectively. Both Uganda and Chad were previously referred by Pre-Trial Chambers of the Court to the Council for past failures to arrest and surrender Mr. Al-Bashir — Uganda in 2016 and Chad in 2011 and 2013. No action in relation to these or any other referrals by Pre-Trial Chambers to the Council, has been taken. This situation, I respectfully submit, is untenable and the Council must increasingly assume its responsibility to take appropriate action following a notification by the Court of non-compliant States. Proceedings are also ongoing regarding Jordan's failure to arrest and surrender Mr. Al-Bashir in March 2017.

I must emphasize that the Pre-Trial Chambers of the Court have developed a body of jurisprudence that clarifies the obligations of States parties under the Rome Statute. The Council will recall that Pre-Trial Chamber II of the Court made a decision in December 2017 to find the Hashemite Kingdom of Jordan in non-compliance with its obligation to arrest and surrender Mr. Al-Bashir during a visit on 29 March 2017, and to refer the matter

to the Council and the Assembly of States Parties. That decision again made clear that Mr. Al-Bashir's official status did not justify a failure by a State party to arrest and surrender a suspect subject to an ICC arrest warrant. Jordan appealed that decision and the Court's Appeals Chamber is now seized of the question.

The Appeals Chamber has scheduled a hearing for 10, 11 and 12 September 2018. In advance of that hearing, on the basis that the legal issues in the appeal may have broader implications, the Appeals Chamber has invited the relevant parties to make submissions that may assist in its determination of the legal issues raised in Jordan's appeal. In response to an invitation by the Appeals Chamber to States parties and professors of international law, the United Mexican States and 16 law professors were granted permission to submit legal observations. The Appeals Chamber also invited the United Nations, the African Union, the European Union, the League of Arab States and the Organization of American States to submit observations on the legal issues in the appeal by 16 July.

I am particularly encouraged by the fact that the African Union recently notified the Appeals Chamber of its acceptance of the invitation to submit observations. The participation of the African Union in the process is very important, not least because, as the African Union observed in its notification to the Appeals Chamber, 33 of the 55 African Union States members are also parties to the Rome Statute of the International Criminal Court.

The issue of official immunities in relation to persons subject to ICC warrants of arrests was discussed at the African Union Summit in Addis Ababa on 28 and 29 January. I am also aware that various follow-up initiatives are being considered by the African Union. In that context, I commend the African Union for taking the opportunity to constructively engage with the Appeals Chamber on this important issue.

The Appeals Chamber also invited the Sudan and Mr. Al-Bashir to file submissions, by 16 July, on the merits of the legal questions raised in Jordan's appeal. It is important for the Appeals Chamber to hear and consider the views of all interested parties before its final determination on the issue.

All the relevant stakeholders in the matter have an opportunity to express their viewpoints to the Appeals Chamber. I am hopeful that they will each do so, including the Security Council via the United Nations, and thereby participate in a process that will result in a final determination of this critical issue.

My Office would be remiss not to recognize and appreciate the continued progress towards stability in Darfur. I commend the efforts of all those involved in the Darfur peace process, led by the African Union High-level Implementation Panel and supported by the African Union-United Nations Hybrid Operation in Darfur.

Despite that progress, as my report makes clear, intermitent violence in Darfur continued during the reporting period. A number of clashes were reported between forces of the Government of the Sudan and various rebel groups in the Jebel Marra area. In addition, there were reported attacks by Rapid Support Forces and militiamen during March and April on villages located in Jebel Marra. The clashes and attacks reportedly resulted in tens of thousands of additional internally displaced persons.

My report notes the 1 February report by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), which stated that, according to the Government of the Sudan, there had been a substantial decrease in the overall number of internally displaced persons from Darfur and that hundreds of thousands were returning to their homes. I note that OCHA indicated that it is verifying the numbers of returning internally displaced persons. As stated in my previous report, the Office echoes the Council's view expressed in its resolution 2363 (2017) that any return should be safe, voluntary and in accordance with applicable international law.

Sustainable peace and stability can return to Darfur only once the root causes of conflict are addressed. That includes ending impunity for alleged crimes under the Rome Statute in Darfur and ensuring accountability for the victims of those serious crimes. The collective efforts aimed at ensuring such accountability, which I outlined in my report, will go on. My Office will continue to play its role, together with the other organs of the Court and the international community at large. I appeal to the courageous women and men who are victims of the past and ongoing crimes in Darfur not to despair but to bear with us and continue to cooperate with our ongoing investigations.

Today I ask the Council, as the organ that began the process of accountability for Rome Statute crimes in Darfur, to more actively play its part in these collective

efforts — and in particular to show its support for my Office's investigations by facilitating United Nations funding and taking steps to ensure that my Office obtains the cooperation it needs, including from the Sudan.

Finally, I respectfully request the Council to provide its support to secure the arrest and surrender of the Darfur suspects. That is a prerequisite for justice being done for the thousands of victims in the Darfur situation, and a vital next step in the process that the Council started with its referral of the Darfur situation to my Office.

In addition to falling short of adequately responding to the legitimate calls of victims for justice, the status quo will not only erode public confidence in the cause of international criminal justice in Darfur, but also in the Council itself. We must work together more effectively, within our respective mandates, to ensure full implementation of, and compliance with, resolution 1593 (2005). More than a decade since the Council adopted that resolution, it is past time that we did just that. We must act collectively and with resolve. My Office remains firm in its commitment and as a ready partner in that joint obligation.

The President (*spoke in Russian*): I thank Prosecutor Bensouda for her briefing.

I shall now give the floor to those Council members who wish to make statements.

Mrs. Dickson (United Kingdom): I would like to thank the Prosecutor for her twenty-seventh report on the situation in Darfur, pursuant to resolution 1593 (2005), and for her briefing today. I would also like to commend her and her staff for their hard work and dedication in the investigations.

The International Criminal Court (ICC) has an important role to play in global efforts to end impunity for the most serious crimes of international concern. The United Kingdom fully supports its efforts to hold perpetrators to account and to achieve justice for victims. We understand how difficult the investigations have proven to be for the Prosecutor and her team and how disheartening that can be, but we encourage them to maintain their current level of commitment, as the victims and the witnesses deserve nothing less.

While the United Kingdom welcomes the decrease in armed conflict between Government forces and the armed opposition, we are concerned by the ongoing clashes between the Sudan Liberation Army/Abdul Wahid faction and Government forces in the Jebel Marra region. Reports of villages being burned, aerial bombardmens and civilian casualties and displacements are particularly troubling. It is unacceptable that the Government of the Sudan has prevented the African Union-United Nations Hybrid Operation in Darfur (UNAMID) and humanitarian actors from accessing areas of recent conflict. We call on the Government of the Sudan to provide unfettered access immediately.

As the security situation shows signs of improvement in some parts of Darfur, small numbers of internally displaced persons (IDPs) are beginning to return to their areas of origin. However, many of those returns are short-lived and precarious due to localized insecurity, the occupation of lands by militias and the absence of basic services. We note that the Prosecutor's Office is highly concerned for the fate of some of those IDPs. We are also concerned that the situation is particularly perilous for female IDPs, given the ongoing prevalence of sexual and gender-based violence. The Government of the Sudan, with the support of UNAMID and international donors, must focus its efforts on creating the conditions necessary for the safe and voluntary return of all IDPs in accordance with applicable international law, as required by resolution 2363 (2017).

The continued lack of progress in the peace process is a cause for significant frustration. We urge all parties to engage meaningfully and to focus their efforts on implementing the African Union High-Level Implementation Panel road map. Linked to that, the Government must ensure the protection of fundamental human rights, including the freedom of expression and the freedom of association, in order to create an environment conducive to political dialogue and democratic reform.

In adopting resolution 1593 (2005), the Council committed to supporting the Office of the Prosecutor in its efforts to investigate the situation in Darfur. We must therefore act upon the Prosecutor's request to the Council to take effective measures to enable the Court to carry out its mandate in Darfur, in particular by asserting the need for all States to cooperate with the Office's investigations.

In that regard, the United Kingdom looks forward to the Arria Formula meeting on Security Council-International Criminal Court relations, on 6 July,

initiated by the Netherlands and sponsored by the United Kingdom and others. We encourage our fellow Member States to engage constructively with that meeting and to consider carefully what more we as a Council can do to ensure that the Court receives the necessary support. The United Kingdom joins those States which believe that the Council should consider steps that it might take to address non-compliance findings by the Court when they are referred to the Council by the Court's judges. In that connection, the United Kingdom again calls on the Government of the Sudan to fulfil its legal obligations pursuant to resolution 1593 (2005) to cooperate fully with the Court and to arrest and surrender the suspects to it without further delay.

The United Kingdom continues to be frustrated that fugitives from the Court, including President Al-Bashir, Mr. Harun and Mr. Hussein, are still travelling to certain countries unhindered. For its part, the United Kingdom will continue to raise its concerns with the relevant Governments, including through the European Union. We renew our call on all States parties to cooperate with the International Criminal Court and abide by its obligations under the Rome Statute. We also urge them to consult the Court if they feel they are unable to cooperate with it for whatever reason.

Finally, we again thank the Office of the Prosecutor for its continued commitment to pursuing these investigations and achieving justice for the victims of Darfur, despite the fragility of the security situation, access restrictions and the lack of cooperation. We urge them to continue with this important work.

Mrs. Gueguen (France) (*spoke in French*): On behalf of France, I sincerely thank Prosecutor Bensouda and her team for the important work they have been doing for six years in the Office of the Prosecutor of the International Criminal Court (ICC). France appreciates the importance that such a mission represents for her and her team, who are engaged on a daily basis in rooting out and identifying culpability; for the victims, who await recognition and reparation; and for witnesses, who have chosen to place their trust in justice in a context that is anything but simple. That is why it is important that we steer a clear course. Our focus is on combating impunity for crimes committed in Darfur. Our biannual debate today is a clear reminder of that.

When the Security Council, in resolution 1593 (2005), referred the situation in Darfur to the ICC Prosecutor 13 years ago, it was because members were collectively convinced that they must act to ensure that no further atrocities were committed in Darfur and that there would be no reconciliation or stability in the Sudan without justice for the victims. Those objectives have not yet been achieved. It is the Council's responsibility to take resolute action to combat impunity in the Sudan and to put an end to the crimes committed in Darfur. Ensuring that justice is served is essential to any long-term stabilization in Darfur and the Sudan.

Certainly, the overall improvement in the security situation makes stabilization possible, which is an encouraging development. However, many challenges remain. That is particularly true in Jebel Marra, where people continue to suffer. France also remains concerned about the persistence of intercommunal conflicts and militia activities, which remain a major cause of concern for the populations, in particular for the most vulnerable. Too many women still fall victim to sexual violence in Darfur. We must also remain attentive to the plight of the displaced populations. There are still nearly 2 million displaced people in Darfur, for whom lasting solutions have yet to be found. That requires continued efforts to end the fighting and violence against civilians, in particular in Jebel Marra, including by reaching a cessation of hostilities agreement.

Addressing the root causes of the conflict is also essential, in particular with regard to land, access to natural resources and restoring the rule of law. It is also imperative to pursue efforts to advance the political process. In all these areas, the African Union-United Nations Hybrid Operation in Darfur plays an important role. It must continue to implement its mandate in the course of the ongoing reconfiguration. In particular, it is essential that the mission has access to areas where the protection of civilians and humanitarian access are critical, be it in Jebel Marra or elsewhere.

The fight against impunity for the most serious crimes and respect for human rights are also fundamental to achieving long-term stabilization in Darfur. In order for people who have suffered to regain confidence in their environment and return to a normal life, it is essential that the perpetrators of crimes be identified and held accountable for their actions.

France recalls once again the importance of the obligation to cooperate with the Court, in accordance with the resolutions adopted by the Council. That applies to the implementation of the arrest warrant

against President Al-Bashir and the four other suspects identified by the Court. France rejects the trivialization of non-cooperation on the part of States Members of the United Nations, especially States parties to the Rome Statute. Of course, that obligation is primarily incumbent on the Sudan, which must execute arrest warrants against its nationals for acts committed on its territory and cooperate with the Court pursuant to resolution 1593 (2005).

The judges of the International Criminal Court have repeatedly recalled the obligation of States parties to the Rome Statute to cooperate with the Court and to execute arrest warrants when the people against whom they are issued are on their territory. Therefore, France regrets that persons subject to arrest warrants have not been arrested, in defiance of resolution 1593 (2005), the Rome Statute and the decisions of the International Criminal Court.

We must fulfil the Court's legitimate requests so that it may fully carry out its mandate. We must ensure that cooperation with the ICC is effective and that arrest warrants are executed. The same applies to the implementation by the Council of its own resolutions, in particular resolution 1593 (2005). In that connection, France reiterates its proposal that States which, according to the Court, have not complied with their obligations to cooperate with the Court be invited to address the Security Council. It will then be up to the Council to determine, on the basis of that exchange of views, what action to take.

Mr. Alemu (Ethiopia): We thank Prosecutor Fatou Bensouda for her briefing, although we take strong exception to the way she has been rather flippant in setting the tone for others to follow, in that regard, when she addresses one of the most respected African leaders in our region, whose role in bringing about peace and stability in our region means so much to the peoples of our region. We know what the uproar would be like if she referred to leaders from other regions in the same way. As an African, I find this very sad. It is a double standard that we continue to be haunted by.

Ethiopia's position on the issue of the Sudan and the International Criminal Court (ICC) has been very consistent and clear. I have already given a hint concerning our narrative in that regard. It is in line with the position of the African Union, which has repeatedly called for the suspension of the proceedings against the President of the Sudan, Omar Al-Bashir, and urged the Security Council to withdraw the referral of the case in the Sudan. We continue to believe that the Council has abdicated its responsibility with regard to that matter. The withdrawal of the referral would have enormous positive implications for peace and security of our region and the mandate of the Council. We continue to believe that, given the extremely weak nature of the case, its continuation makes absolutely no sense. Increasingly available information is reinforcing our conviction in that regard. In fact, it would only damage the credibility of the Council, for the lack of action concerning the matter would not be consistent with the primary responsibility that the Council shoulders with regard to international peace and security. Most important, recent events underscore the need for the Council to seriously re-examine its position on the matter.

The Sudan has been playing a constructive role in combating terrorism, human trafficking and illicit migration, as well as dealing with other regional peace and security issues, which has been broadly acknowledged to date. It has enhanced its bilateral and multilateral cooperation and engagement on all those issues, and that has been considered very valuable under the leadership of the Sudanese President. The lifting of the bilateral economic sanctions imposed on the Sudan by the United States for the past two decades is a major positive development, which is a result of the Sudan's improved international relations.

As we have been saying for quite some time now, the situation in Darfur has continued to show marked progress. The hostilities between the Government of the Sudan and rebel forces have decreased substantially, and the security situation on the ground has improved significantly. The level of intercommunal violence has once again plummeted, and humanitarian access across Darfur continues to improve, which has been confirmed by the joint strategic review of the African Union and the United Nations that provided us with a very useful analysis of the situation in Darfur. We therefore believe that there is a need for a paradigm shift in our approach to dealing with the Darfur situation. The Sudanese Government has demonstrated its political will to sustainably address the challenges in the region. It has also exerted much effort to address the challenges that the Sudan as a whole is facing. What is expected from the international community is to intensify its efforts to assist the Government's work to alleviate the suffering of the people of Darfur.

Of course, we also recognize that much remains to be done with regard to addressing the root causes of the conflict in Darfur and ensuring long-term stability. For that reason, we call on the Government to redouble its efforts to implement all remaining tasks. The international community should also live up to its commitments, and the Council in particular should exert pressure on armed movements to negotiate seriously ending the suffering of the people in Darfur.

In the light of the positive developments that I just mentioned and the constructive role that the Sudanese Government is playing in a range of issues, it is only appropriate that the international community change its approach to dealing with the Sudan. That is why we welcomed the lifting of the unilateral sanctions imposed by the United States against the Sudan. It is also high time that the Council begin seriously to consider the issue of the Sudan and the ICC.

Mr. Meza-Cuadra (Peru) (*spoke in Spanish*): We express our gratitude for the convening of this meeting and thank Prosecutor Fatou Bensouda for her briefing on the situation in Darfur and the valuable work that she is carrying out with her team. Pursuant to resolution 2363 (2017), Peru supports the political process in that country and action to address the root causes of the conflict and to ensure the safe return of the approximately 1.8 million internally displaced persons, among other urgent measures.

It is fitting to recall that, shortly after the Rome Statute's entry into force and the assumption of its responsibility under the Charter of the United Nations, the Security Council demonstrated its trust in the jurisdiction of the International Criminal Court for the first time by referring the situation in Darfur to it. That was a necessary step in efforts to guarantee access to justice and accountability. We therefore renew our support for the work of the Office of the Prosecutor today, but we are aware of its complex nature and that it requires the full cooperation of States, beginning with national authorities directly concerned. In that regard, it is appropriate to remind the authorities of the Government of the Republic of the Sudan of their duty to execute arrest warrants issued by the Court. Similarly, we regret that some States parties to the Rome Statute have not lived up to their obligation to cooperate with regard to the investigation and prosecution of crimes that fall under its jurisdiction and especially the obligation to detain and surrender to the Court persons subject to an arrest warrant who enter their territory. Likewise, we urge all States to act in accordance with their obligations pursuant to resolution 1593 (2005).

While instances of non-compliance with the Court's orders clearly undermine its credibility, it is also true that failure to take measures to address such situations affects the credibility of the Council. In that regard, as the non-cooperation focal point of the Group of Latin American and Caribbean States, Peru welcomed the New Zealand initiative of December 2016 to address that problem.

We must also remember that, while the Court is essential for preventing the most serious crimes from going unpunished, its jurisdiction is complementary to the responsibility of every State to protect its people. Similarly, cooperation with the Court should be understood as an opportunity to strengthen justice and the rule of law in domestic and international areas. That is predicated upon promoting greater confidence in legal institutions and effective deterrence. Trust in the justice system and the predictability of its response to atrocity crimes is particularly relevant for a country like the Sudan, which has been affected by conflict. Nothing justifies impunity.

In conclusion, I would like to highlight the important work being done by the African Union-United Nations Hybrid Operation in Darfur in the exercise of its mandate in all areas of Darfur, and reaffirm our support for the Doha Document for Peace in Darfur.

Mr. Zhang Dianbin (China) (*spoke in Chinese*): The Chinese delegation listened very carefully to the briefing we heard from the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda. Over the past few years, the political and security situation in Darfur and the Sudan have improved considerably, a development that has been welcomed by the international community. This is due partly to the cooperation between the African Union and the United Nations as well as the international community as a whole. More important still, it is due to the efforts and the contributions of the Sudanese Government itself.

The Government of the Sudan has been working for many years now to strengthen its own capacity in the field of security and governance and to promote a political process of reconciliation, in particular over the past year, when it has engaged in an active campaign to collect weapons, which has made a major contribution to peace and stability in Darfur. We very much welcome

the progress that we have witnessed in Darfur and the efforts undertaken by the Sudanese Government itself to bring about the current situation.

The progress made in Darfur demonstrates that the Sudanese Government is entirely capable of progressively assuming and taking over its responsibilities for the maintenance of peace and stability in the region of Darfur. We hope that the international community will continue to respect the leadership of the Sudanese Government when it comes to the issue of Darfur.

We hope that the international community will also contribute effectively to peace and stability in Darfur, with a focus on capacity-building in the areas of security and governance. We also call on it to provide humanitarian and economic assistance and to stand with the Sudanese Government and help it in its efforts to promote reconciliation reconstruction in Darfur in order to ensure that all of these regions can enjoy sustainable peace and lasting development.

China's stance on the Sudanese issue with respect to the ICC remains unchanged. China hopes that the Security Council and the ICC will fully respect the sovereignty of the Sudan. They must also address the legitimate concerns of the African Union and the Sudanese Government when it comes to this issue and fully respect the views of the African Union and the League of Arab States, which cannot be ignored.

China has long been of the view that Heads of State enjoy privileges and immunities under international law by virtue of their office and that the referral of a situation by the Security Council to the ICC in no way necessarily undermines or strips the immunity enjoyed by such Heads of State.

Ms. Schoulgin Nyoni (Sweden): I wish to thank Prosecutor Bensouda for her briefing today and to assure her of our continued and full support for the efforts of the International Criminal Court (ICC) and of her Office. It is imperative that her call for the full backing of the Council and member States be positively received, respected and acted upon. For the Council, this means following through on our decisions, in this case our unanimous decision to refer the situation in Darfur to the ICC.

Regrettably, once again little has changed since the Prosecutor last briefed the Council in December 2017 (see S/PV.8132). It is particularly frustrating that all arrest warrants remain outstanding and that the suspects remain at large. We reiterate our call on the Government of the Sudan to cooperate fully with the Court, in accordance with resolution 1593 (2005). In addition, further steps by the Government of the Sudan are also needed to ensure justice for the women, men and children who have been victims of the horrendous crimes committed during the conflict in Darfur. Victims' voices must be heard.

The success of the referral of the Darfur situation to the Office of the Prosecutor continues to depend heavily on the cooperation of States, in particular States parties to the Rome Statute. In this regard, it is deeply concerning that the President of the Sudan has been able to continue to travel internationally, including to States parties to the Rome Statute, which have an obligation to cooperate with the Court in fulfilling its mandate. Like other States parties, we continue to raise the issue of non-cooperation with the relevant Governments. Without its own enforcement mechanism, the Court relies on States to fulfil its mandate, including by executing arrest warrants. As we and several other State parties have stated previously, the Council should approach cases of non-cooperation in a structured manner and, as a minimum, discuss which tools it has for an appropriate response.

Turning to the current situation in Darfur, we welcome reports that over the last six months, both the level of violence against civilians and the number of internally displaced persons have decreased. We are pleased to observe a continuing improvement in the overall situation and to see that clashes with the Sudan Liberation Army-Abdul Wahid remain confined to Jebel Marra. Nonetheless, we remain concerned about reports from the African Union-United Nations Hybrid Operation in Darfur regarding continued attacks on villages and civilians. In addition, despite the fact that the number of reported incidents of rape remained relatively low during the reporting period, sexual and gender-related violence remains a serious problem in Darfur.

We agree with Prosecutor Bensouda that for a lasting peace in Darfur to be achieved, the root causes of the conflict must be recognized and addressed in a holistic manner. Adequate steps to do so have yet to be put in place, for example in response to persistent poverty, gender inequality, inadequate access to social services, the adverse effects of climate change, land issues and violations and abuses of human rights.

Building effective rule-of-law institutions is a critical part of the process of addressing the remaining challenges successfully.

In conclusion, let me once again underline the significant contribution that the Court and the Office of the Prosecutor have made to ensuring accountability for perpetrators and justice for victims of serious international crimes. As supporters and as members of the international community, we have an obligation to continue to support its work, including by ensuring sufficient financial funding for the Court to be able to carry out its mandate.

Mr. Llorenty Soliz (Plurinational State of Bolivia) (*spoke in Spanish*): My delegation is grateful for the very informative briefing that we have heard from the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, on her twenty-seventh report pursuant to resolution 1593 (2005).

We have taken note of the progress made in investigations as well as of the difficulties that the Office of the Prosecutor has faced in the course of investigations as well as in its judicial activities, relating to situations that hamper the fulfilment of the task entrusted to the Office by the Security Council.

The situation in Darfur triggered the first referral of a case by the Security Council to the International Criminal Court. Since then, 13 years have elapsed, and said case still languishes at the investigation stage — an investigation that, as the report indicates, faces major obstacles. The Council cannot and must not be indifferent to the fact that the investigation has dragged on for more than a decade. The time that has passed makes it harder to shed light on the crimes committed and to attribute responsibility.

Bolivia believes that those who have committed war crimes and crimes against humanity must answer to the courts. There can be no denying that this is an important element for consolidating peace in Darfur. In voicing our support for the work of the International Criminal Court, we wish to recall that when the Security Council referred the situation in Darfur to the Court in resolution 1593 (2005), it not only activated the jurisdiction of the Court with respect to trying persons but also urged it to support the promotion of the rule of law, the safeguarding of human rights and the fight against impunity, while underscoring the non-jurisdictional activities of the ICC such as the promotion of peace, reconciliation and institution-building.

Against that backdrop, we encourage the Office of the Prosecutor to include, in its next report to the Security Council, details on the activities undertaken by the Court to promote the strengthening of judicial organs and institutions in the Sudan, now that the priority is the consolidation of sustainable peace in Darfur.

We also urge the Court to join in the efforts of the international community, particularly regional organizations, to strengthen political processes in the Sudan, particularly those related to the Doha Document for Peace in Darfur. We believe that, as indicated in resolution 1593 (2005), cooperation and coordination between the Court and the African Union are crucial. The commitment of that regional organization to fighting impunity is undeniable, as set out in its Constitutive Act. In addition, we recall that the African Union set up a ministerial committee to address issues related to the case. In that context, we call for the establishment of constructive dialogue to facilitate the necessary work and strengthens trust between both institutions.

Over the past years, we have seen positive developments in the Sudan, as mentioned in the recent strategic review (see S/2018/530) of the African Union-United Nations Hybrid Operation in Darfur (UNAMID), which affirms a general improvement in the security situation in Darfur and increased cooperation between the Government of the Sudan and the United Nations to facilitate UNAMID's work on the ground. Bolivia believes that it was possible to reach such a point primarily thanks to the joint work of the African Union, the United Nations and the Government of the Sudan. All such efforts should continue, with a focus on strengthening peace in Darfur.

It is important to highlight that the development and the future of international criminal justice are closely linked to the concepts of the cooperation and complementarity of States. The International Criminal Court is a complementary court to the primary and sovereign capacities of each State to administer justice in its territory. In addition to achieving effective and timely prosecutions, it is therefore necessary to re-establish local capacities. That demonstrates that it is now necessary to carefully review the case of Darfur. We reaffirm that the International Criminal Court is a global undertaking of interest to all States and that its mission is intrinsically linked to the strengthening

of international criminal justice, peace, security and respect for human rights and to ensuring due process.

In that context, on the occasion of the twentieth anniversary of the adoption of the Rome Statute, we must take this opportunity to reflect on the effectiveness of the Court and on whether the model developed meets the expectations of cooperation and universality. The Security Council and the membership of the United Nations in general must take stock of the cost of the International Criminal Court in pursuing investigations and trials within its competence Moreover, when we see that various States, including members of the Security Council, are still not a State party to the Rome Statute. For that same reason, the debate on the impunity enjoyed by many of those responsible for crimes against humanity or war crimes undermines the relative capacity of the Court and, at the same time, weakens the effectiveness of its work. We stress the point that we cannot continue a frank dialogue while such countries do not meet their own international obligations.

Bolivia fulfils its obligations as a State party to the Rome Statute of the International Criminal Court and supports efforts in the pursuit to justice in fighting impunity. We therefore urge all States that have not yet done so to ratify the Rome Statute in order to ensure its universal jurisdiction. To that end, we believe that the value of the principle of universality of the International Criminal Court is vital.

Mr. Ndong Mba (Equatorial Guinea) (*spoke in Spanish*): At the outset, on behalf of the Republic of Equatorial Guinea, allow me to congratulate you, Mr. President, on the Russian Federation's second victory in the World Cup football championship this morning.

We would like to welcome and thank Prosecutor Fatou Bensouda for her briefing on the twenty-seventh report on the situation in Darfur in accordance with resolution 1593 (2005). We appreciate the work of the Prosecutor, as well as the report that she has just presented to us.

As we have already reiterated on many occasions before the Chamber, the Republic of Equatorial Guinea is a State that supports respect for international law and international humanitarian law. That is why we commend the great efforts of the Security Council to fight impunity for serious crimes and to promote the principles of justice and responsibility, as well as to demand accountability of all those responsible for war crimes, genocide, crimes against humanity and other related crimes, as well as its unremitting effort to establish institutions or methods to deal with such evils.

However, with regard to the International Criminal Court, we would like to point out that we adhere to all the declarations and resolutions issued by the African Union on the way in which the Court deals with some African issues, in particular concerning the proceedings against the President of the Sudan, Mr. Omar Al-Bashir. The Republic of Equatorial Guinea believes that the International Criminal Court has no jurisdiction to charge a President of the Republic, in full discharge of his duties, given the fact that, as the symbol of national sovereignty, he enjoys immunity. International law on the immunity of senior State officials must be respected. The required cooperation by the Office of the President and the Court is being diminished by the lack of credibility of that judicial institution as a result of its inability to meet its responsibilities in an efficient, honest and transparent way. It is not by chance that several countries, including countries that are party to the Rome Statute, have not cooperated in the arrest and detention of President Omar Al-Bashir on account of their not sharing the interpretation of the Court with regard to immunity.

The fact that so many years have passed without the Court being able to make progress in that case clearly demonstrates the absence of grounds. The Republic of Equatorial Guinea therefore shares the position of the African Union with regard to the International Criminal Court's action concerning Darfur. Accordingly, we join the repeated request of the African Union for the suspension of proceedings against the President of the Sudan, Mr. Omar Al-Bashir, and the withdrawal of the referral of the case.

Meanwhile, Equatorial Guinea welcomes the positive political developments in Darfur, thereby improving the security and stability of the country. Under the leadership of President Al-Bashir, the Sudan plays a very active and positive role in combating sectarian violence and terrorism, which is already having encouraging results on the ground.

In accordance with the principles of responsibility and justice, like the African Union, which is calling for the restoration of peace and justice in Darfur, the Republic of Equatorial Guinea is fully convinced that dialogue and national reconciliation, in line with the Doha Document for Peace in Darfur, are basic elements

for achieving a proper solution to the problems in the Sudan and a broad and lasting peace. The actions of the international community should support that momentum and not hinder it.

I will conclude by encouraging the Government of the Sudan to continue to make every effort to uphold calm and respect for international humanitarian law and human rights for all parts of the population under its sovereignty, as well as to maintain the positive momentum and to strengthen its cooperation with the African Union-United Nations Hybrid Operation in Darfur and the United Nations country team in the country in order to achieve peace and prosperity for the entire Sudanese population.

Mr. Almunayekh (Kuwait) (*spoke in Arabic*): At the outset, I would like to welcome Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC). We take note of her briefing on the ICC twenty-seventh report on the Sudan.

The State of Kuwait, in its capacity as the Arab member in the Security Council, recalls the 514th resolution adopted at the twenty-second Arab Summit in Sirte, in 2010. The resolution represents the Arab position vis-à-vis the proceedings of the ICC against the President of the Republic of the Sudan, a position that rejects the politicization of the principles of international justice and their use to challenge the sovereignty, unity and stability of States under the guise of international criminal justice. The Arab position underscores the need to respect the sovereignty, territorial integrity and independence of the Sudan. That is challenged by the ICC decision, which is considered to be a precedent against a sitting Head of State, enjoying immunity as provided for heads of states by international law. The decision of the ICC did not gain the support of regional organizations to which the Sudan is party, such as the League of Arab States, the African Union and the Organization of Islamic Cooperation. All these organizations are part of the international labour organizations, as set forth in Chapter VIII of the Charter of the United Nations. It is of vital importance to ensure coherence and harmony in their work, as well as in the work of other international organizations, such as the ICC.

The Secretary-General's report on the situation in Darfur (S/2018/530), issued last month, demonstrated the significant reduction in intercommunal conflict and the continued efforts by the Government of the Sudan to extend the ceasefire and achieve continued progress in the weapons collection campaign, as well as a significant reduction in the crime rate. The twenty-seventh report of the Prosecutor, which is before us, also welcomes the continued stability of the security situation in Darfur.

Therefore, when the Security Council addresses the issue of Darfur, it must do so in a comprehensive and coherent manner in order to assist the efforts of the Government of the Sudan to build peace and remove any obstacles to peace, as called for in relevant Security Council resolutions. Accordingly, we hope that the ICC proceedings will not become an obstacle to achieving peace in the Sudan. That is the noble objective of the entire international community, especially in the light of the positive, tangible developments that we have all witnessed in Darfur, a region that has moved away from the hardest phase of conflict towards building peace.

In conclusion, we renew our commitment to respecting the principles of international law and the Charter of the United Nations on that matter, including respect for State sovereignty. We reaffirm the importance of respecting the sovereignty and independence of the Sudan.

Mr. Simonoff (United States of America): I would like to thank the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for her briefing.

The United States strongly supports justice and accountability for war crimes, crimes against humanity and genocide. Although the best way to promote accountability for such atrocities may depend on the circumstances, the United States will always believe that victims, including the victims in Darfur, deserve justice. Hundreds of thousands of people have been killed during the conflict in Darfur, with more than 2 million remaining internally displaced and 5 million negatively affected since the onset of the conflict. Although there are now fewer reports of civilian displacement across Darfur, internally displaced persons (IDPs) still cannot safely return home and risk attacks when they leave IDP camps. As the 21-23 May attacks by the Sudan's Rapid Support Forces on three separate IDP camps demonstrated, even IDPs who stay within camp boundaries face substantial risks.

The United States is troubled by the resurgence of violence in Jebel Marra in April and May, which resulted in injuries and deaths of civilians, including children, the destruction of homes and food, and the displacement

of 9,000 people. We also remain concerned by violence, including intercommunal violence, in other areas of Darfur outside of Jebel Marra, and the lack of access in various parts of Darfur afforded to the African Union-United Nations Hybrid Operation in Darfur (UNAMID). Of particular concern are the increasing reports of a potentially calamitous harvest failure across the Sudan in October because of the ongoing economic and fuel crises, which might contribute to a return to a return to large-scale conflict and conflict-related atrocities as conditions become more unstable and people become desperate for resources.

We call on the Sudanese Government to show restraint and to allow UNAMID, the United Nations country team, humanitarian organizations and the media unfettered access to the areas where violence has taken place and where communities remain vulnerable to violence so that they can investigate these troubling reports, monitor current needs and conditions, and provide assistance to those in need.

It is shameful that sexual violence, including such violence committed by personnel in military attire and Rapid Support Forces uniforms, remains prevalent in Darfur and that the Sudanese Government often denies that this violence is taking place, despite clear evidence to the contrary. As the United Nations Special Representative on Sexual Violence in Conflict has noted, conflict-related sexual violence against children has increased recently and cases of conflict-related sexual violence in Darfur go uninvestigated. That deterioration and the lack of accountability are unacceptable.

The culture of impunity that continues to surround those atrocities, in particular those involving sexual violence, must end. With hopes that peace could return to Darfur, the United States included ceasing military offensive and aerial bombardments in Darfur and the two areas as a key component of the five-track engagement plan that we launched with the Sudan in June 2016. We are pleased that the Government of the Sudan made some progress under that framework, including ceasing military offensive and aerial bombardments, during that period. However, much more progress is needed. We are determined to remain engaged as we work to develop a phase-two follow-up engagement plan, which will aim for improved respect for human rights and religious freedom, a sustainable end to internal conflicts and improvement in humanitarian access, among other priority objectives.

To achieve stable and lasting peace in Darfur, justice and accountability are essential. Those responsible for human rights violations and abuses in Darfur, including by targeting civilians, must be held accountable. That includes allegations that official security forces use excessive force against civilians and that members of armed militias perpetrate atrocities against civilians in Darfur. We welcome the arrest by the Sudanese Government of former Janjaweed commander Musa Hilal, who is subject to United Nations sanctions for his commission of atrocities in Darfur following clashes between the Sudanese security forces and our militia, loyal to Hilal.

However, we are concerned about the lack of transparency around Hilal's military trial and the charges he faces. We call on the Government to investigate promptly and credibly all allegations against Hilal, including those related to atrocities, in accordance with the Sudan's human rights commitments and obligations, and to hold Hilal to account if he is found to have committed violations.

The United States has noted for many years that it is unacceptable that the suspects in the Darfur situation have not been brought to justice and remain at large. In particular, we have expressed disappointment that Sudanese President Omar Al-Bashir continues to travel around the world. His being received on such visits has served only to diminish the seriousness of the charges against him and to compound the tremendous suffering of the victims. Regardless of the power wielded by those who are responsible for violations and abuses, we must stand with the victims as we have in the past. For example, in Cambodia and Sierra Leone, where leaders have in the past committed atrocities against their own citizens, they have been called to answer for their alleged crimes.

Moving forward, we will use all appropriate tools at our disposal to press the Sudan to improve its human rights practices, protect fundamental freedoms and promote justice for the people of Darfur. A Sudan that adheres to the rule of law, respects human rights, allows unfettered humanitarian access to all populations in need and breaks the cycle of impunity is one that will enjoy sustainable peace and prosper. We look forward to the day when the Sudan is a demonstrable proponent of human rights.

In conclusion, I would reiterate the concerns of the United States about the ICC's activities with respect to

the situation in Afghanistan, which is different from the current situation in many ways. We continue to have a long-standing and principled objection to any ICC investigation or other activity concerning United States personnel, absent United States consent or Security Council referral.

Mr. Tumysh (Kazakhstan) (*spoke in Russian*): We would like to echo the congratulations offered by the representative of Equatorial Guinea on the victory of Russia's football team and wish the team continued success.

We are pleased that Mr. Iliichev is present at today's meeting. He is the Director of the Department of International Organizations of the Ministry of Foreign Affairs of Russia and a long-time friend of the Security Council.

(*spoke in English*)

I would like to thank the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for her semi-annual briefing to the Council and for her efforts to uphold international rule of law, justice, transparency and accountability. I also welcome His Excellency Ambassador Omer Dahab Fadl Mohamed, Permanent Representative of the Republic of the Sudan, to the Chamber.

We took note of the twenty-seventh report of the Prosecutor of the International Criminal Court pursuant to resolution 1593 (2005) and would like to make the following observations.

Kazakhstan welcomes Khartoum's commitment to stability in Darfur and to strengthened cooperation with the United Nations and the African Union (AU). Such efforts have resulted in the continuing improvement in the security and humanitarian situation in Darfur, an overall reduction in intercommunal clashes and the consolidation of Government authority throughout the area. Our delegation believes that those positive results would not have been achieved without respect for the national ownership, sovereignty and independence of the Sudan. We encourage the Government of the Sudan to maintain that positive momentum and to continue to work diligently with the African Union-United Nations Hybrid Operation in Darfur and the United Nations country team to advance the peace process, address the root causes of the conflict and achieve peace and prosperity for the entire Sudanese population.

Kazakhstan is confident that constructive and inclusive dialogue, in accordance with the Doha Document for Peace in Darfur, is the only way to establish peace and stability in Darfur. We encourage the Court to join regional and international efforts to reach the objectives of the Doha Document by supporting the Sudan's capacity to promote the rule of law, address impunity and protect human rights.

In conclusion, as a member-observer of the African Union, Kazakhstan underscores the critical role of the AU in resolving the crisis in Darfur and its return to peace and justice. We therefore suggest that the Court take into consideration the unified position of the African Union and establish dialogue with the Open-ended Ministerial Committee of Ministers for Foreign Affairs on the ICC.

Lastly, we believe that our joint efforts and mutual trust among all parties and institutions will definitely lead to a stable, peaceful and prosperous Sudan.

Mr. Lewicki (Poland): At the outset, let me take this opportunity to express our appreciation for the work of the Prosecutor of the International Criminal Court (ICC) and that of her Office, and her commitment to continuing to advance the cause of international justice. As mentioned by the Prosecutor, justice, including ending impunity and providing accountability, continues to play an important role in addressing the root causes of conflict and is key to ensuring long-term stability.

Both the report and the briefing by the Prosecutor highlight that the States Members of the United Nations must cooperate with the Court and underscore the importance of the support of the Security Council and other stakeholders for the mandate of the Office of the Prosecutor. We note the Office's observation that reported violence against civilians in Darfur appears to have decreased slightly, as compared to the previous reporting period, but we remain concerned about the accounts of clashes, attacks on villages and aerial bombardment in the Jebel Marra area, as well as the consequences of such actions, including casualties among civilians, their further displacement and the destruction of their homes.

Notwithstanding the decrease in the number of internally displaced persons (IDPs) in Darfur, the problem still exists and requires our close attention and an appropriate solution. In that regard, and in the context of the authorities' decision to close all IDP camps by

the end of the year, we note that resolution 2363 (2017) stresses that any return should be safe, voluntary and in accordance with applicable international law. In other words, due to the limited level of access to health care, schools and work in the areas of concern, any forced return should be prevented.

The volatile human rights situation in Darfur is also cause for great concern. Sexual and gender-based violence must be closely monitored and prevented. Persons in vulnerable situations in particular, including women and girls, must be protected. Furthermore, despite the release of some detainees, reported arbitrary arrests and detentions require scrutiny and review.

The discussed withdrawal of the African Union-United Nations Hybrid Operation in Darfur must be compensated by an increased presence of the United Nations country team and closer cooperation among relevant stakeholders. Increased efforts by the authorities to provide security, promote intercommunal reconciliation and deal with the root causes of the conflict are crucial. The adoption and implementation of an agreement on the cessation of hostilities by the Government and armed movements, as well as the full implementation of the Doha Document for Peace in Darfur, are equally important. We cannot forget the importance of the international community's support for the peace process and the development of the region.

Poland supports the ICC and the Office of Prosecutor Bensouda in ensuring accountability and achieving justice for the victims. We endorse the Office's request that the Council take effective measures to enable the Court to carry out its mandate in Darfur. As identified in the report, such measures may include adopting a persuasive course of action against States that were referred to the Council by the Court in its non-compliance decisions and related referrals, facilitating financial assistance from the United Nations and effectively encouraging all States to cooperate with the Office's investigations.

Mr. Djédjé (Côte d'Ivoire) (*spoke in French*): My delegation would like to thank the Prosecutor of the International Criminal Court, Ms. Fatou Bensouda, for her semi-annual briefing on the activities of the Court with regard to the situation in Darfur. As a State party to the Rome Statute Côte d'Ivoire reaffirms its full support for the efforts of the International Criminal Court to promote international justice and combat impunity both in Darfur and the rest of the world.

My delegation notes with satisfaction the situation of peace and relative stability in the Darfur region, after several years of crisis. We call on the international community to work towards consolidating the progress made. In that regard, Côte d'Ivoire supports the ongoing political process and encourages the Government of the Sudan to redouble its efforts to further address the root causes of conflict to achieve lasting peace and stability.

Côte d'Ivoire remains firmly committed to respecting human rights. We believe that the fight against impunity is an important aspect of the national reconciliation process and that the quest for lasting peace in Darfur remains dependent upon accountability for those who are guilty of committing serious crimes and human rights violations. In that regard, my delegation reiterates its appreciation for the efforts of the Office of the Prosecutor to address that need for justice.

We encourage the Sudanese authorities, in the context of enhanced cooperation with the Office of the Prosecutor, to provide an adequate response to the concerns expressed, in particular with regard to clarifying the allegations of human rights violations and bringing to justice those responsible for such violations and other atrocious crimes committed during the conflict in Darfur.

As highlighted in the special report of the Chairperson of the African Union Commission and the Secretary-General of the United Nations (S/2018/530) on the strategic review of the African Union-United Nations Hybrid Operation in Darfur, published on 1 June, despite the efforts of the Government of the Sudan to re-establish authority over Darfur as a whole, weak institutional capacity and the lack of financial resources have a negative impact on the establishment of rule of law, justice and security institutions.

According to the same report, attacks against civilians, including sexual and gender-based violence, continue in Darfur, despite the efforts of the Government of the Sudan to establish the rule of law. Côte d'Ivoire therefore encourages the international community to assist in the establishment of strong institutions capable of meeting the challenge of establishing the rule of law in Darfur.

Côte d'Ivoire would like to commend the Government of the Sudan for the significant progress made in improving the security situation and stability in Darfur. We note with satisfaction the incorporation of that progress in the reorientation of United Nations

work towards peacebuilding, development and recovery activities, with the exception of the Jebel Marra area.

The lifting of various sanctions imposed on the Sudan by certain States and the improvement in the sociopolitical situation in Darfur constitute positive developments that contribute to amplifying the peace and development dynamics under way.

In conclusion, Côte d'Ivoire reiterates its support for the actions of the Prosecutor of the International Criminal Court in cases relating to the situation in Darfur and calls upon the international community to support the efforts of the Sudanese Government to definitively restore peace and stability to that region.

Mr. Van Oosterom (Netherlands): Let me to join others in welcoming the Prosecutor of the International Criminal Court (ICC) to the Security Council. We express our sincere gratitude to Ms. Fatou Bensouda for her briefing and report. We also pay tribute to the Prosecutor and her Office for their tremendous efforts and leadership in a sometimes difficult context. The Kingdom of the Netherlands reiterates its full support for the International Criminal Court. The city of The Hague is its proud host.

The ICC is the principal institution created to strengthen international rule of law by bringing to justice those responsible for gross human rights violations and international crimes. In that sense, the ICC plays a crucial role in the Security Council's efforts to promote peace and security in Darfur. I will address three issues today: first, the outstanding arrest warrants; secondly, accountability; and, thirdly, the need for cooperation with the Court.

First, with respect to the outstanding arrest warrants, 13 years ago, the Council adopted resolution 1593 (2005), which referred the situation in Darfur to the ICC. The Kingdom of the Netherlands deplores the fact that all suspects of the Darfur situation still remain at large. Let us not forget that the charges against the suspects include genocide, war crimes and crimes against humanity. One of the people at large, Mr. Banda, is accused of leading an attack on the African Union Mission in the Sudan, in North Darfur. Twelve peacekeepers were killed during that attack. We regret that the Government of the Sudan has not arrested all the suspects and has not brought them to The Hague.

Furthermore, we are deeply disappointed that some of the suspects, like the President, continue to travel unhindered to other States. We are even more disappointed that, when the President travelled to States parties, he was not arrested. We call upon all States to meet their obligations under resolution 1593 (2005) — all States should cooperate fully with the Court; all States should fulfil their obligations. In our view, all States should arrest and surrender all those persons against whom an arrest warrant has been issued by the ICC.

Secondly, with regard to accountability, to date there has been no accountability for victims of crimes in Darfur. I pay tribute to the fact that some victims and family members from Darfur are present here today. The Kingdom of the Netherlands welcomes the recent relative decrease in violence in Darfur, but remains deeply concerned about the continued human rights violations, as well as the continued impunity. We remain alarmed by the reports of continued conflict-related sexual violence, arbitrary arrests and extrajudicial killings. The Council must ensure accountability for those and other gross human rights violations. Accountability is the only road towards sustainable peace.

Let me quote the words of the Permanent Representative of Senegal, my friend Mr. Fodé Seck, in his statement last December in the Council.

> "No peace can be built on the vestiges of impunity or failure to hold perpetrators responsible. Accountability should never be ignored" (*S/PV.8132, p. 9*).

It is the responsibility of both the Government of the Sudan and the Security Council to uphold that critical principle. International law should prevail.

Thirdly, I will address the need for cooperation with the Court. The Council referred the situation in Darfur to the ICC 13 years ago because of the atrocities committed there. Under Chapter VII of the Charter of the United Nations, the Council decided that the Government of the Sudan must cooperate fully with the Court and the Prosecutor. The Council also urged all States and regional and international organizations to cooperate fully with the Court and the Prosecutor. The Court needs that cooperation to function effectively, as the Prosecutor made abundantly clear today. In our view, all States should therefore extend full cooperation to the Court. Only with the full cooperation can the Court

fulfil the mandate the Council gave it. Regrettably, to this day, full cooperation is not happening.

It is unacceptable that the victims of international crimes in Darfur have been waiting for more than 13 years. It is unacceptable that the victims of international crimes in Darfur are still waiting for the Council to ensure that its own decisions are adequately followed up. It is unacceptable that the victims of international crimes in Darfur are still waiting for justice.

The Council should take action when the Council concludes that States have breached their obligation to cooperate. When the Court deems that, the Council should invite non-compliant States to come to it and should decide on concrete follow-up action, and we support the suggestions related to that just made by our Polish colleague.

In conclusion, history has taught us that we cannot have lasting peace without justice, accountability or reconciliation. If we are all fully committed to that goal, we can help the victims in Darfur and their loved ones and families. They deserve justice. International law and the Charter must be upheld.

The President (*spoke in Russian*): I will now make a statement in my capacity as the representative of the Russian Federation.

I wanted to comment on the Prosecutor's report, but there is basically nothing to comment on. There has been zero progress in the investigations. The report, a document that in theory should deal with the Court's activity, is largely devoted to listing the international travels of the President of the Sudan, while the rest of it is stuffed with quotations from the Secretary-General's reports and verbatim transcripts of Security Council expert briefings.

One topic, however, is worthy of attention and I will consider it in more detail. The International Criminal Court (ICC) continues to call on States Members of the United Nations, including those that are not party to the Rome Statute, to arrest and turn over to the Court various subjects of its investigative activities. I am referring in particular to the arrest of the President of the Sudan based on resolution 1593 (2005). However, the resolution clearly states that States that are not party to the Rome Statute have no obligation under it, and they are therefore not required to satisfy this type of request from the ICC. If my memory does not deceive me, that was inserted into the resolution at the suggestion of the United States. However, the mere fact that a situation has been referred to the ICC by the Security Council does not automatically cancel the immunity of official representatives of the Governments involved. We hope that the States parties to the Statute also realize that.

The immunity of Government officials from criminal prosecution is one of the key norms of customary international law and an extremely important factor for stability in international relations. According to customary law, there are no exceptions to the personal immunity of high officials, while all other government officials enjoy functional immunity. What the ICC has created, therefore, is a situation where we are seeing States consistently refusing to comply with the warrants issued by The Hague for the arrest of the President of the Sudan. This is not surprising. Governments act based on their international legal obligations. This situation will continue to steadily erode the level of trust in the International Criminal Court. That, alas, is the reality and our assessment of the situation. I am therefore unfortunately compelled to say that the ICC today is not a body capable of effectively carrying out the tasks that the Security Council originally entrusted to it.

I now resume my functions as President of the Security Council.

I give the floor to the representative of the Sudan.

Mr. Mohamed (Sudan) (*spoke in Arabic*): Once again, we would like to commend you, Mr. President, on your presidency of the Security Council for this month, and to congratulate your country on its outstanding organization of this year's FIFA World Cup.

As you mentioned in your statement, Mr. President, the Sudan, like other States that are not party to the Rome Statute of the International Criminal Court (ICC), has no obligation to the Court with regard to all the provisions of its Statute, including part IX, on international cooperation. That is why we are here today not to address the Court but the Council, in full respect for the Charter of the United Nations. The Sudan is an active member of the international community, and we are therefore fully committed to respecting customary international law and the various international treaties and conventions to which we are party. Combating impunity is one of our top priorities in that regard, and we seek to achieve effective peace and justice in Darfur while dealing with a conflict that is coming to an end.

We were surprised to hear Prosecutor Bensouda refer in her statement to Abdel Hussein, a new name that was added only today to her list. As we will prove later on, our regional organization, the African Union, has always categorically insisted, in all its resolutions at the summit level, on its total commitment to combating impunity. The Council has already seen for itself that the main reason for many members of the African Union to become party to the Rome Statute is to be able to fight impunity. That is why the African Union and its Member States — bitterly, objectively, continually and consistently — criticize the International Criminal Court, especially the Office of the Prosecutor, for its practices and the many ways in which the Statute contradicts international law. The African Union and its Member States have underscored their commitment to fight impunity.

The idea of establishing an international criminal legal system as a means for applying international criminal law was implemented only in 2002, when the Rome Statute of the Court came into force. Unfortunately, this young regime quickly fell victim to distortions and corruption — which the Prosecutor calls distraction and asks us to ignore it. Because the principle of universality has always been subject to politicization, the system has fallen victim to abhorrent selectivity, whereby where the Court and the Office of the Prosecutor have focused their jurisdictional activities on African States almost exclusively. The response of the African Union has been a harsh one.

Furthermore, the Court has sought to arrest the President of an African State — the Sudan — while arrests have never been seen in any other region of the world. My brother the representative of Ethiopia eloquently addressed this issue today. The accusation is not because of a committed crime that falls under the jurisdiction of the Court, but because of the nationality of the accused person. This politicization and selectivity in the work of the Court were exposed by WikiLeaks in February 2009. The objective is to achieve political aims by putting pressure on certain States and exploiting them politically in order to reach great bargains.

The report of the Office of the Prosecutor that was submitted for our consideration today admits that the political exploitation, distortion and corruption have led to a dangerous situation. I would like at this point to paragraph 9 of the report, which refers to the response to the rejection by the Hashemite Kingdom of Jordan to the accusation by the Court of violating its international commitments:

> "the Appeals Chamber also invited expressions of interest for observations from States Parties and professors of international law, because Jordan's appeal 'raises legal issues that may have implications beyond the present case'".

The ICC feels that it is imperilled as a result of a situation in which it was put by the previous Prosecutor, Luis Moreno Ocampo, a corrupt individual. The ICC now finds itself in an out-of-control situation. The Rome Statute is contradictory to international customary law and to the immunities enjoyed by Heads of State and Government. You yourself were particularly clear on that point, Mr. President, in your statement as the representative of the Russian Federation to the Security Council. There is also much controversy about the legality and legitimacy of Article 13 (b) of the Rome Statute, particularly pertaining to cases referred by the Security Council to the ICC.

This situation led the African Union in its Summit held in January to request an advisory opinion of the International Court of Justice concerning the immunity of Heads of State. Before that, the African Union had attempted for several years to communicate and undertake a dialogue with the Security Council in order to put an end to the procedures being enacted against the President of the Republic of the Sudan under Article 16 of the Rome Statute. We have always sought to be above board about these questions so as to ensure that we can have a decisive ruling concerning the position under international law with regard to the issue of privileges and immunities to be enjoyed by Heads of State. We wanted to be clear on this issue because we believe that all the States Members of the United Nations, whether or not they are party to the Rome Statute, want clarity and decisiveness on this issue.

It is regrettable that the former and current Prosecutors, in their 27 different reports on Darfur, have come up against difficulties linked to the fact that they are incapable of defining their own mission or their own raison d'être. There have also been problems with the drafting their various reports and statements submitted to the Security Council under resolution 1593 (2005), which have also been incoherent. We have said repeatedly — and the representative of the Russian Federation also made this point — that issues relating to Darfur and Libya are always submitted in

the context of reports that do not seem to be reports of the International Criminal Court, but rather reports that are issued by a monitoring body.

We see that the Prosecutor and her Office have chosen an erroneous methodology in their report for our consideration today. They lied about an aerial bombardment of the Jebel Marra region in central Darfur during the reporting period between January and June. The aerial bombardment never happened at all. This lie is added to another lie contained in the report issued by the Prosecutor's Office in September 2016. It claimed that chemical weapons had been used by the Sudanese armed forces in Jebel Marra region. That accusation was fabricated by the British group Amnesty International. Unfortunately, the British representative mentioned this dangerous accusation in her statement, which could revive the conflict in Darfur.

It is therefore no surprise that today the Sudan is firmly opposed to the actions and activities of the ICC. The report described us as being hostile to the Court. The meddling of the Court imperils security and political and social stability in the Sudan. All of this presents risks to the situation in Darfur and serves to incite rebel mvements to commit fresh violations targeting victims, whom the Prosecutor claims to be protecting.

We would like to draw the Council's attention to another serious issue, namely, the fact that the Prosecutor and her Office have stepped outside the proper framework of what should be their jurisdiction. They have gone beyond the jurisdiction set for them in resolution 1593 (2005). The resolution sets clear geographical limits for the case referred to the Court. It was to deal only with Darfur. However, paragraph 33 of the Prosecutor's report refers to protests in Khartoum and the arrest of 411 people who were protesting austerity measures and taken by the Government. The relevant paragraph states that "hundreds of people reportedly continue to be arbitrarily detained in [the] Sudan for prolonged periods of time." We insist once again upon the need for accountability pertaining to such acts, which are not within the framework defined in the resolution.

Lastly, the Prosecutor's report mentions a quotation from two statements delivered by the representative of Senegal in June and December 2017. The quotation was selectively and partially cited to such an extent that its meaning was completely distorted. Moreover, my friend the representative of the Netherlands also brought up this issue. We are happy to present the Council with the complete quotation, which overall corresponds with our beliefs and those of the African Union and the international community. I would like to quote what the representative of Senegal mentioned in his two statements:

> "Subscribing to the principles of accountability and justice, my country — like the African Union, which calls for re-establishing peace and justice in Darfur — continues to believe that dialogue and reconciliation are essential steps towards bringing out comprehensive and definitive peace and finding a lasting solution" (*S/PV.8132, p. 19*).

The President (*spoke in Russian*): The representative of Ethiopia has asked for the floor to make a further statement.

Mr. Alemu (Ethiopia): I would like to add a few words to what I said earlier.

First, let us not kid ourselves. There are many double standards with regard to ensuring international justice and fighting impunity. We strongly believe that the original referral was absolutely wrong. We in the region knew that was the case. Therefore, our position on the matter is in no way to be understood as allowing impunity. By the way, the African Union is perhaps the only organization in the world whose charter, which is called the Constitutive Act, provides for the organization to intervene in the internal affairs of member States in situations in which war crimes, crimes against humanity and genocide have been committed. I doubt that any other organization has that kind of provision. I might be mistaken.

Having once made a mistake, the Security Council seems to insist on not rectifying it. Frankly, the Council has no case here, and Member States have to realize that.

Incidentally, my objection to what the Prosecutor said was essentially based on the form and style of her presentation, not its substance. Otherwise, the fault lies with the Council, not with the Prosecutor. The referral was wrong, and it needs to be withdrawn. I also agree with what the Permanent Representative of the Sudan said in connection with the statement delivered by our colleague from the Netherlands concerning the Permanent Representative of Senegal's past statement (see S/PV.8132).

The President (*spoke in Russian*): I now give the floor to Prosecutor Bensouda to respond to the comments and questions made.

Ms. Bensouda: I thank you, Sir, for the opportunity to reply to the comments made moments ago by the representative of the Republic of the Sudan. As the Security Council is aware, only rarely do I take the opportunity to respond to comments made following my reports on the Darfur situation. I have not done so for two years. However, today I feel compelled to do so. I always listen carefully to the statements delivered by the representative of the Republic of the Sudan. I regret the hostile and disrespectful language directed at me personally, as well as my Office and the International Criminal Court (ICC) at large.

It is perhaps ironic that, owing to the Government of the Sudan's policy of complete non-cooperation with my Office, it is here in the seat of the body that referred the Darfur situation to my Office that I have come closest to anything resembling a so-called dialogue with the Government of the Sudan. This is a state of affairs that I wish to remedy, and I once again repeat my offer to the Sudan to discuss the real issues at stake here and engage on the issue of surrendering any or all of the suspects to my Office. Despite these repeated demands made and the groundless allegations levelled against me and the Court, I remind all parties that the ICC, including my Office, is entirely independent and regulated by a robust legal and procedural framework that guarantees fair trial rights and due process to all. I strongly reject the continued baseless allegations of conspiracy theorists and improper motives. It is tiring and demonstrates a lack of respect for not only the Council and its important work, but also the victims of atrocity crimes and the cause of international criminal justice, more broadly.

Let me be clear: I and my Office are interested only in pursuing accountability for alleged crimes in connection with the Darfur situation in a fair and impartial manner in accordance with the Rome Statute. We hope that our efforts will bring about justice for the thousands of victims of those alleged crimes, while respecting all rights of the suspects. That deep need for justice and accountability is of course why the Council referred the situation in Darfur to my Office in the first place. Our investigations have uncovered, and continue to uncover, evidence that supports the allegations of the most serious crimes allegedly committed by the suspects in the Darfur situation, which include representatives of the Government of the Sudan and its current President. This is a fact that the Government of the Sudan cannot simply wish away. Furthermore, to the extent that it must be said again, I remind all those listening today that the warrants of arrest were issued only after the independent judges of the Court were satisfied that there were reasonable grounds to believe that the suspects of those warrants committed crimes within the jurisdiction of the Court as alleged by my Office. As is the case in any national system, which my Office complements, those allegations should be answered by the suspects. To date, the Government of the Sudan has refused to surrender any suspect to the Court so that the truth can be determined by the chambers of the Court in full transparency. So to the Government of the Sudan I say this. Rather than uttering the same tired slurs, it should transfer the suspects to the Court and let the facts and the evidence speak the truth.

I now address the victims, who continue to yearn for justice. They should take courage in the example set by the International Tribunal for the Former Yugoslavia. Ratko Mladić was indicted in 1995, not arrested until almost 16 years later, finally convicted last year of crimes that include genocide, and sentenced to life in prison. The victims should therefore not be discouraged by inaccurate statements aimed at shielding those who bear criminal responsibility. They should not stop their pursuit of justice or their willingness to come forward with evidence to my Office. In our pursuit of justice in the Darfur situation, I assure them that my Office will not stop; that I will not stop. We are committed to doing our job by the Rome Statute, and without fear or favor.

The meeting rose at 12.10 p.m.